

**REMARKS**

Favorable reconsideration and allowance of the present patent application are respectfully requested in view of the the following remarks. Claim 4-14 were pending prior to the Office Action. Claims 15-21 have been added by this Reply. Therefore, claims 4-21 remain are pending. Claim 4, 15, and 18 are independent.

**ALLOWABLE SUBJECT MATTER**

Applicants appreciate that the Examiner has indicated claims 7-11 define allowable subject matter.

**DRAWINGS**

As noted above, drawings have been submitted as requested.

**OBJECTIONS TO CLAIMS**

Claims 4-14 stand objected to for informalities. These claims have been amended as suggested. More specifically, all recitations of "the mode setting means" and "the color temperature detected means" have been changed to "the photographic mode setting means" and "the color temperature detecting means", respectively, to enhance consistency. These amendments do not

change the scope of the claims. Applicants respectfully request that the objections to claims 4-14 be withdrawn.

35 U.S.C. § 112, 1st PARAGRAPH REJECTION

Claims 12-13 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. More specifically, it is alleged that the recitation, “the low-pass filter having a time constant larger than the predetermined cycle” as recited in claim 12 is not described. Applicants respectfully traverse.

In the Office Action, it is correctly noted that the specification states, “in the still mode the time constant of the low pass filter 70 is set smaller than in the movie mode.” From another perspective, the statement is easily interpreted to read “in the movie mode, the time constant of the low pass filter 70 is **set larger** in the than in the still mode.” *Emphasis added.* When viewed from this perspective, the recitation of claim 12 is clearly supported.

Applicants respectfully request that the Section 112, first paragraph rejection of claims 12-13 be withdrawn.

35 U.S.C. § 103 REJECTION BASED ON SAKAI AND RELATED ART

Claims 4 and 14 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sakai (USPN 5,170,069) ("Sakai") in view of the related art ("Related Art") described in the Background of the Invention section of the present application. Applicants respectfully traverse.

First, Applicants do not necessary agree that the Related Art is prior art. Second, even assuming *arguendo* that such is the case, the rejection is still improper.

For a Section 103 rejection to be proper, a *prima facie* case of obviousness must be established. See *M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that there must be a suggestion or motivation within the cited reference(s) to modify the reference(s) as proposed in the Office Action. See *M.P.E.P. 2143.01*. The cited reference must be considered in its entirety including disclosures that teach away from the claimed invention and each other. See *M.P.E.P. 2142.02*. If the proposed modification renders the cited reference unsatisfactory for its intended purpose, then by definition, there is no suggestion or motivation to make the proposed modification. See *M.P.E.P. 2143.01*. Thus, if the proposed modification renders the cited reference unsatisfactory for its intended purpose, the rejection must fail.

In the Office Action, it is alleged that Sakai's high speed continuous photographing mode H is equivalent to the movie mode as claimed. However, Sakai clearly discloses that in the high speed continuous photographing mode, the white balance status is maintained unchanged. See column 10, lines 18-29; Figure 4A-2. Sakai discloses that the white balance is set initially (see step S524 of Figure 4A-1), but not adjusted again for the duration of the high speed continuous photographing mode H (see steps S60-S64 of Figure 4A-2). Indeed, Sakai specifically teaches against adjusting the white balance at all to prevent color changes between continuously photographed images. See column 10, lines 29-31.

In contrast, the Related Art clearly indicates that continual adjustments to the white balance take place while in the movie mode. Thus to the extent that the Related Art teaches continual adjustments and Sakai specifically teaches against adjustments at all, the Related Art renders Sakai unsatisfactory for its intended purpose and the two may not be properly combined.

Thus, any rejection based on a combination of Sakai and the Related Art is improper. Therefore, claims 4 and 14 are distinguishable over the combination of Sakai and the Related Art.

In addition, claim 14 is distinguishable over the cited references for at least the following additional reason. In a proper Section 103 rejection, the prior art references, when combined, must teach or suggest all claim limitations. See *M.P.E.P. 2142*; *M.P.E.P. 706.02(j)*. In this instance, Sakai and the Related Art fails to teach all claimed limitations.

For example, claim 14 recites, *inter alias*, "when the sequential mode is set ... the control means prohibits updating the color temperature signal ... used for white balance adjustment ... after the first frame." In the Office Action, it is asserted that the low speed continuous photographing mode L is equivalent to the sequential mode as claimed.

However, Sakai teaches that the white balance is set initially (see *step S524 of Figure 4A-1*). If the device is in low speed mode (see *decision step S66 of Figure 4A-2*), then the white balance is adjusted again (*back to step S524*). Thus, it is clear that Sakai clearly teaches multiply adjusting white balance when in the low speed mode. See *column 10, lines 44-47*; *Figures 4A-2, 4A-1*. Therefore, Sakai cannot teach prohibiting white balance adjustment after the first frame when sequential mode is set.

For at least the reasons stated above, claims 4 and 14 are distinguishable over the combination of Sakai and the Related Art. Applicants

respectfully request that the rejection of claims 4 and 14, based on Sakai and the Related Art, be withdrawn.

35 U.S.C. § 103 REJECTION BASED ON SAKAI, RELATED ART, AND UEHARA

Claim 5 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sakai in view of Related Art, and in further view of Uehara et al. (USPN 4,595,946) ("Uehara"). Applicants respectfully traverse.

It has been shown above that rejection based on any combination of references involving Sakai and the Related Art is improper. Therefore, claim 5 is distinguishable over the combination of Sakai, the Related Art, and Uehara.

Applicants respectfully request that the rejection of claim 5, based on Sakai, the Related Art, and Uehara, be withdrawn.

35 U.S.C. § 103 REJECTION BASED ON SAKAI, RELATED ART, UEHARA, AND NAKAMURA

Claim 6 stands rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Sakai in view of Related Art and Uehara and in further view of Nakamura (USPN 4,281,337)("Nakamura"). Applicants respectfully traverse.

It has been shown above that rejection based on any combination of references involving Sakai and the Related Art is improper. Therefore, claim 6

is distinguishable over the combination of Sakai, the Related Art, Uehara, and Nakamura.

Applicants respectfully request that the rejection of claim 6, based on Sakai, the Related Art, Uehara, and Nakamura, be withdrawn.

#### NEW CLAIMS

Claims 15-21 have been added through this reply. All new claims are believed to be distinguishable over the cited references, individually or in any combination. For example, independent claim 15 recites, *inter alia*, "wherein in the movie mode, the controlling device initially sets and periodically updates the white balance of the video signal of the continuously moving image and wherein a length of time between updates is longer than a photographing cycle of frames composing the moving image." Independent claim 18 recites a similar feature.

In the Office Action, a combination of Sakai and the Related Art was relied upon to reject a similar feature. However, as shown above, such combination is improper. Therefore, independent claims 15 and 18 are distinguishable over any combination of the cited references.

Claims 16-17 and 19-21 depend from independent claims 15 and 18, respectively, directly or indirectly. Therefore, for at least the reasons stated

with respect to the independent claims, these dependent claims are also distinguishable over any combination of the cited references.

Applicant respectfully requests that the claims 15-21 be allowed.

### **CONCLUSION**

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and such allowance is respectfully solicited. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Hyung Sohn (Reg. No. 44,346), to conduct an interview in an effort to expedite prosecution in connection with the present application.



If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By: 

Michael K. Mutter, Reg. No. 29,680  
P.O. Box 747  
Falls Church, VA 22040-0747  
703-205-8000

h5

MKM/HNS/mlr  
(703) 205-8000  
0879-0282P

Attachment(s): Four (4) sheets of drawings